

4 February, 2004

Kansas Department of Health and Environment
Amended Regulation

28-19-202. Annual emissions fee. (a) The owner or operator of each stationary source of air emissions that has actual emissions of the type and quantity specified in subsection (b) of this regulation shall pay an annual emissions fee to the department. Actual emissions shall be calculated for a calendar year according to K.A.R. 28-19-210.

(b) The types of air emissions and the quantity of actual emissions for which annual emissions fees shall be assessed shall be the following:

(1) Air emissions of 100 or more tons per year of any of the following:

(A) Sulfur oxides measured as sulfur dioxide;

(B) particulate matter calculated as PM10, except if no emission factor or approvable method for calculating PM10 is available, annual emissions fees shall be assessed for total particulate emissions;

(C) nitrogen oxides expressed as nitrogen dioxide; and

(D) total volatile organic compounds;

(2) air emissions of hazardous air pollutants in either of the following quantities, whichever is greater:

(A) 10 or more tons per year of any single hazardous air pollutant; or

(B) 25 or more tons per year of any combination of hazardous air pollutants.

For purposes of this subsection, actual emissions shall include fugitive emissions from federally designated fugitive emission sources and fugitive hazardous air pollutant emissions.

(c) The annual emissions fee for calendar year 2003 and for each subsequent year shall

equal the sum of the actual emissions of the pollutant or pollutants specified in subsection (b) of this regulation, rounded to the nearest ton, multiplied by \$25.00, subject to the following:

(1) The owner or operator shall not be required to include any pollutant emitted from the stationary source more than one time in the fee calculation; and

(2) the owner or operator shall not be required to include the following in the emission fee calculation:

(A) Emissions of any pollutant of 500 pounds per year or less from any emissions source, unless the total emissions from similar sources at the stationary source equal or exceed 2,000 pounds per year;

(B) emissions in excess of 4,000 tons per year of any single pollutant from any stationary source; and

(C) for a portable emissions unit or stationary source that operates both in Kansas and out-of- state, emissions from the unit or source while operating out-of-state.

(d) Each owner or operator shall complete the calculations of actual emissions and calculations of the emissions fee on forms provided by the department.

(1) A responsible official or the person most directly responsible for the compilation of the submitted information shall sign the completed forms.

(2) The owner or operator shall submit the annual emissions fee payment to the department on or before June 1 of the year following the calendar year for which the actual emissions were determined. Timeliness of submissions shall be determined by the postmark if submitted by mail. If June 1 falls on a Saturday, Sunday, or holiday, then the submission shall be due on or before the next business day following June 1.

(3) The owner or operator shall make annual emissions fee payments by check, draft,

credit card, or money order payable to the Kansas department of health and environment.

(4) Payment of emission fees to the department shall be the responsibility of the person or persons who are the owners or operators of the emissions unit or stationary source on the date the emissions fee is due. For purposes of calculating actual emissions for a period in which someone other than the current owner or operator was the owner or operator of the stationary source, the owner or operator responsible for paying the fee may assume that the operation of the facility was identical to the operation of the facility by the current owner or operator if the current owner or operator has been unable, after reasonable and diligent inquiry, to obtain the actual operating information from the previous owner or operator.

(e) Each owner or operator who fails to pay the annual emissions fee on or before the deadline specified in paragraph (d)(2) shall pay a late fee of either \$100.00 or 1% of the annual emissions fee, whichever is greater.

(f) Each owner or operator who fails to pay the annual emissions fee within 10 calendar days after the date of the department's written notification that the emissions fee has not been received shall pay a continuing late fee, in addition to the fee specified in subsection (e). The continuing late fee shall be \$10 per day or 0.05% of the annual emissions fee per day, whichever is greater. The timeliness of the submission from the owner or operator shall be determined by the postmark if the fee is submitted by mail.

(g) The amount of any overpayment greater than or equal to \$5.00 made by the owner or operator of a stationary source shall be credited to the next year's annual emissions fee. Any owner or operator may apply overpayments of emissions fees paid for one source to the fees applicable to any other source for which the owner or operator is responsible for payment. A refund may be issued by the department if a credit has not been used or if the department

determines that, based on the source's past emissions, a credit will not be used. Overpayments in the amount of \$5.00 or less shall not be credited or refunded. (Authorized by K.S.A. 65-3005 and 65-3024; implementing K.S.A. 65-3024; effective Nov. 22, 1993; amended Jan. 23, 1995; amended March 15, 1996; amended Feb. 21, 1997; amended Feb. 13, 1998; amended March 23, 2001; amended Jan.30, 2004.)